PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: COLLIS, et al.

Examiner:

Morris, Patricia L.

Art Unit:

1625

Application No.: 09/871,564

Filed:

May 31, 2001

Title:

HETEROARYL-CYCLIC ACETALS

Combined Request for Reconsideration of Patent Term Adjustment Indicated in the Notice of Allowance (37 C.F.R. § 1.705) and Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 for the Adjustment (37 C.F.R. § 1.705(b)(2)(i) and (ii))

Mail Stop Issue Fee Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

Applicants request reconsideration of the patent term adjustment indicated in the Notice of Allowance mailed on August 13, 2008.

Applicants submit herewith a "Statement of the Correct Patent Term Adjustment: Basis Under §1.702 For the Adjustment.

Any patent granted on this application is not subject to a terminal disclaimer.

The patent term adjustment shown on the Notice of Allowance is 486 days. It is respectfully suggested that the correct patent term adjustment under §1.702 is 612 days.

Statement of the Correct Patent Term Adjustment

This statement is being submitted in support of the "Request for Reconsideration of Patent Term Adjustment Indicated in the Notice of Allowance" to which this statement is made part.

The basis on which applicant seeks adjustment is as follows:

- According to PAIR applicants failed to timely respond to the April 28, 2005 Restriction Requirement. According to PAIR applicants responded to the April 28, 2005 Restriction Requirement on December 1, 2005. Applicants contend that they responded to the April 28, 2005 Restriction Requirement on August 26, 2005.
- 2. On August 26, 2005 applicants submitted via facsimile, a transmittal cover sheet, a 3 month extension of time and a 1 page reply to the April 28, 2005 Restriction Requirement (Exhibit A).
- 3. On August 26, 2005 applicants received an Auto-Reply Facsimile Transmission confirming receipt by the USPTO on August 26, 2005 at 11:33:30 AM (Exhibit B).
- 4. On December 1, 2005 Examiner Morris of the USPTO phoned Paul Darkes, attorney of record at the time of filing, to inquire as to whether we had responded to the April 28, 2005 Restriction Requirement.. Because Mr. Darkes was no longer responsible for the prosecution of this application, he informed Robin Inman of our docketing group. Ms. Inman returned Examiner Morris' phone call and informed her that a response had been faxed to the USPTO on August 26, 2005 and that we had received an Auto-Reply Facsimile Transmission confirming receipt of our response on August 26, 2005 at 11:33:30 AM.
- 5. On December 1, 2005, James Bolcsak, the attorney of record at that time, prepared a written reply to Examiner Morris' December 1, 2005 phone call (Exhibit C).
- 6. The December 1, 2005 Communication in response to Examiner Morris' phone call was entered into PAIR as the date of our reply to the April 28, 2005 Restriction Requirement. The August 26, 2005 reply was never properly entered into PAIR.
- 7. As a result of the above, applicants respectfully disagree with the USPTO's determination of 126 days of delay on applicants' part for failure to timely respond to the April 28, 2005 Restriction Requirement. Applicant's contend that they timely responded to the April 28, 2005 Restriction Requirement on August 26, 2005 at 11:33:30 AM.
- 8. Applicants agree with the USPTO's determination of 1002 days of delay on the part of the USPTO.
- 9. Applicants further agree with the 390 remaining days of delay on Applicants' part.

Applicants therefore conclude that they are entitled to an Adjustment of Patent Term under 35 USC 154(b) of 612 days.

The Commissioner is authorized to charge the \$200.00 fee set forth in \$1.18(e) required by 37 C.F.R. \$1.705(b)(1) to Deposit Account No. 18-1982. The Commissioner is also authorized to charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,

October 24,7008

Raymond S. Parker, Reg. No. 34,893

Attorney/Agent for Applicant

sanofi-aventis U.S. LLC Patent Department Route #202-206 / P.O. Box 6800 Bridgewater, New Jersey 08807-0800

Telephone: 908-231-5674 Telefax: 908-231-2626

Docket No. USCA2295 US CNT

EXHIBIT A

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Firm Name	AVENTIS PHARMACEUT	ICALS INC.			
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Frinted name	James W BOLCSAK		•		
Date	August 26, 2005		Reg. No. 39912		
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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO in process) an application. Confidentially in governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual pass. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be cent to the Chief Information. Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED PORMS TO THIS ADDRESS, SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

James W. Bolcsak

Typed or printed name

Date

August 26, 2005

PTO/SB/21 (09-04)

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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless if displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 3	Docket Number (Optional)						
FY 2005 (Fees pursuant to the Consolidated Appropriations Act, 2t	005 (H.R. 4818).)	USCA2	295 US CNT				
Application Number 09/871,564	Application Number 09/871,564						
Application Number 09/871,564 For Chemical Compounds Heteroary 1—Cyclic Acetals							
Art Unit 1625		Examiner MORRIS	i, Patricia L.				
This is a request under the provisions of 37 CFR 1.136(application. The requested extension and fee are as follows (check							
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One month (37 CFR 1.17(a)(1))	\$120	\$60	\$				
Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$				
Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$1,020.00_				
Four months (37 CFR 1.17(a)(4))	\$1590	\$795	s				
Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$				
Applicant claims small entity status. See 37 CFR 1.	.27.						
A check in the amount of the fee is enclosed.							
Payment by credit card. Form PTO-2038 is att	ached.						
The Director has already been authorized to c	harge fees in this a	application to a Depos	sit Account.				
The Director is hereby authorized to charge ar Deposit Account Number 18-1982 WARNING: Information on this form may become public. Provide credit card information and authorization on PTO	. I have e	nclosed a duplicate of	opy of this sheet.				
I am the applicant/inventor							
assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).							
attorney or agent of record. Reg	istration Number	39912	***************************************				
attorney or agent under 37 CFR 1.34. Registrati on number if acting under 37 CFR 1.34							
Jame W. Boles	Augus	t 26, 2005					
Signature			Date				
James W. BOLCSAK		908-2	31-5922				
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NOTE: Signatures of all the inventors or assignces of record of the entir signature is required, see below.	e interest or their represen	itative(s) are required. Submit	multiple forms if more than one				
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This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of COLLIS et al.

Examiner:

Morris, Patricia

Application No.: 09/871,564

Art Unit:

1625

Filed:

05/31/2001

TELEFAX CERTIFICATE

Title:

Heteroaryl-Cyclic Acetals

I hereby certify that this correspondence is being transmitted via facsimile to the Commissioner for Patents, Alexandria, VA 22313, at 571-273-8300 on

August 26, 2005

Date of Transmission

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Mail Stop TC1600 Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

In response to the Restriction/Election requirement imposed by the Examiner in the above-referenced application (Office Communication mailed April 28, 2005), Applicants hereby elect Group I for further prosecution.

Group I includes, as determined by the Examiner, the subject matter of claims 1-15, drawn to compounds, classified in classes 540, 544, 546, 548 and 549, in various subclasses. Furthermore, Applicants elect for examination purposes the specie of Example 1 as requested by the Examiner. This compound is 4-[5-(5,5-dimethyl-[1,3]dioxan-2-yl)-2-(4-fluoro-phenyl)-2H-pyrazol-3-yl]-pyridine.

Upon allowance of the above-elected subject matter, the claims will be amended to reflect such election. Applicants reserve the right to pursue the remaining non-elected subject matter in one or more timely filed divisional applications.

Respectfully submitted,

James W. Bolcsak, Reg. No.: 39,912

Altorney/Agent for Applicant

Aventis Pharmaceuticals Inc. Patent Department Route #202-206 / P.O. Box 6800 Bridgewater, NJ 08807-0800 Telephone (908) 231-5922 Telefax (908) 231-2626

Aventis Docket No. CA2295 USCNT

EXHIBIT B



Auto-Reply Facsimile Transmission



TO:

Fax Sender at 908 231 2626

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PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. Application Number 09/871,564 Filing Date TRANSMITTAL May 31, 2001 First Named Inventor **FORM** COLLIS Art Unit 1625 **Examiner Name** MORRIS, Patricia L. (to be used for all correspondence after initial filing) Attorney Docket Number USCA2295 US CNT Total Number of Pages in This Submission **ENCLOSURES** (Check all that apply) After Allowance Communication to TC Fee Transmittal Form Drawing(s) Appeal Communication to Board Fee Attached Licensing-related Papers of Appeals and Interferences Appeal Communication to TC Petition (Appeal Notice, Brief, Reply Brief) Amendment/Repty Petition to Convert to a Proprietary Information After Final Provisional Application Power of Attorney, Revocation Status Letter Affidavits/declaration(s) Change of Correspondence Address Other Enclosure(s) (please Identify Terminal Disclaimer Extension of Time Request below): 1. Communication Request for Refund **Express Abandonment Request** 2. Copy of 8-26-05 response and EOT CD, Number of CD(s) Information Disclosure Statement 3. Copy Of Auto-Reply to Item 2. Landscape Table on CD Certified Copy of Priority Remarks Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Name AVENTIS PHARMACEUTICALS INC. Signature Printed name fames W. BOLCSAK Date Rea. No. 39912 December 01, 2005 CERTIFICATE OF TRANSMISSION/MAILING I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: (USPTO FAX NO. 571-273-8300 Total No. of Pages Transmitted: 7

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application, Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date

December 01, 2005

Signature

Typed or printed name

Paul Irvine

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Collis, et al.

Examiner:

MORRIS, Patricia L.

Application No.: 09/871,564

Art Unit:

1625

Filed:

May 31, 2001

TELEFAX CERTIFICATE

Title:

HETEROARYL-CYCLIC ACETALS

I hereby certify that this correspondence is being transmitted via facsimile to the Commissioner for Patents, Alexandria, VA 22313, on

December 1, 2005

COMMUNICATION

Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

This Communication is in response to a phone call received today from Examiner Morris to Paul Darkes. Examiner Morris's call was to inquire as to whether we had responded to the April 28, 2005 Restriction Requirement. Because Mr. Darkes was no longer responsible for the prosecution of this application, he informed Robin Inman, Sr. Paralegal, US Docketing Formalities. Ms. Inman returned Examiner Morris's call and informed her that a response had been faxed to the USPTO on August 26, 2005 and that we had received the Auto-Reply Facsimile Transmission confirming receipt of the response on August 26, 2005. Examiner Morris requested that we resubmit a copy of the August 26, 2005 response. Applicants respectfully resubmit a copy of their August 26, 2005 response to the April 28, 2005 Restriction Requirement which included a 3 month extension of time.

Applicants believe that no additional changes should be incurred; however, the Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Account No. 18-1982.

Respectfully submitted,

James W. Bolcsak, Reg. No. 39,912

Attorney/Agent for Applicant

Aventis Pharmaceuticals Inc. (a member of the sanofi-aventis group) U.S. Patent Operations Route #202-206 / P.O. Box 6800 Bridgewater, New Jersey 08807-0800 Telephone (908) 231-5922 Telefax (908) 231-2626

Aventis Docket No. USCA2295 US NP







TO:

Fax Sender at 908 231 2626

Fax Information

Date Received: Total Pages:

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Signature	- James	-W. Black	,		
Printed name	James W BOLCSAK				
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James W. Bolesak

Typed or printed name

Date

August 26, 2005

PTO/S8/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no per	sons are required to respond to a col	ection of Infor	mation unless it	displays a valid OMB control number.			
	Application Number	09/871,50	64				
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FORM	First Named Inventor	COLLIS					
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Fee Transmittal Form Fee Attached Amendment/Reply After Final Affidavits/declaration(s) Extension of Time Request Express Abandonment Request Information Disclosure Statement Certified Copy of Priority Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53	Drawing(s) Licensing-related Papers Petition Petition to Convert to a Provisional Application Power of Attorney, Revocation Change of Correspondence A Terminal Disclaimer Request for Refund CD, Number of CD(s) Landscape Table on CD marks	ddress	Appea of App Appea (Appea (Appea Status	I Communication to Board eals and Interferences I Communication to TC I Notice, Brief, Reply Brief) etary Information Letter Enclosure(s) (please Identify			
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Firm Name AVENTIS PHARMACEUTIC	CALS INC.						
Signature	W. Bleak						
Printed name James W BOLCSAK							
Date August 26, 2005		Reg. No. 39912					
I hereby certify that this correspondence is being for	CERTIFICATE OF TRANSMISSION/MAILING I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with						
sufficient postage as first class mail in an envelope the date shown below: (USPTO FAX NO. 571-27	addressed to: Commissioner for	Patents, P.	.O. Box 14 <u>50,</u> <i>i</i>	Alexandria, VA 22313-1450 on)			
Typed or printed name	W. Boles al	k	Date	August 26, 2005			

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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)	Docket Number (Optional)						
FY 2005 (Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)	USCA2295 US CNT						
Application Number 09/871,564	Filed May 31, 2001						
For Chemical Compounds Heteroary 1-Cyclic Acetals							
Art Unit 1625	Examiner MORRIS, Patricia L.						
This is a request under the provisions of 37 CFR 1.136(a) to extend the peri application. The requested extension and fee are as follows (check time period desired a	•						
Fee One month (37 CFR 1.17(a)(1)) \$120	Small Entity Fee \$60 \$						
Two months (37 CFR 1.17(a)(2)) \$450	\$225						
Three months (37 CFR 1.17(a)(3)) \$1020	\$510						
Four months (37 CFR 1.17(a)(4)) \$1590	\$795						
Five months (37 CFR 1.17(a)(5)) \$2160	\$1080 \$						
Applicant claims small entity status. See 37 CFR 1.27.							
A check in the amount of the fee is enclosed.							
Payment by credit card. Form PTO-2038 is attached.							
The Director has already been authorized to charge fees in this a	application to a Deposit Account.						
The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 18-1982 I have enclosed a duplicate copy of this sheet. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.							
I am the applicant/inventor.							
assignee of record of the entire interest. See 37 Cl Statement under 37 CFR 3.73(b) is enclosed (F							
attorney or agent of record. Registration Number	39912						
attorney or agent under 37 CFR 1.34. Registrati on number if acting under 37 CFR 1.34							
- Jame W. Boland	August 26, 2005						
Signature	Date						
James W. BOLCSAK	908-231-5922						
Typed or printed name	Telephone Number						
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their represent signature is required, see below.	tative(s) are required. Submit multiple forms if more than one						
Total of forms are submitted.							

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Examiner:

Morris; Patricia

COLLIS et al.

Application No.: 09/871,564

Art Unit:

1625

Filed:

05/31/2001

TELEFAX CERTIFICATE

Title:

Heteroaryl-Cyclic Acetals

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August 26, 2005

Date of Fransin

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Mail Stop TC1600 Commissioner for Patents P. O. Box 1450 Alexandria, VA 22313-1450

In response to the Restriction/Election requirement imposed by the Examiner in the above-referenced application (Office Communication mailed April 28, 2005), Applicants hereby elect Group I for further prosecution.

Group I includes, as determined by the Examiner, the subject matter of claims 1-15, drawn to compounds, classified in classes 540, 544, 546, 548 and 549, in various subclasses. Furthermore, Applicants elect for examination purposes the specie of Example 1 as requested by the Examiner. This compound is 4-[5-(5,5-dimethyl-[1,3]dioxan-2-yl)-2-(4-fluoro-phenyl)-2H-pyrazol-3-yl]-pyridine.

Upon allowance of the above-elected subject matter, the claims will be amended to reflect such election. Applicants reserve the right to pursue the remaining non-elected subject matter in one or more timely filed divisional applications.

Respectfully submitted,

James W. Bolcsak, Reg. No.: 39,912

Attorney/Agent for Applicant

Aventis Pharmaceuticals Inc.
Patent Department
Route #202-206 / P.O. Box 6800
Bridgewater, NJ 08807-0800
Telephone (908) 231-5922
Telefax (908) 231-2626

Aventis Docket No. CA2295 USCNT